
Legal-Institutional Typology of the Subject of Economic Security

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Abstract:

The article considers the problems of development of legal regulation in economic security. It evaluates the questions of formation of institutional factors, which define the system of legal prevention of threats to economic security.

The study investigates the problems of transformation of economic security into one of the fundamental categories of the current right, which in turn defined the direction and depth of legal institutional structure of economic security at all levels. The factors impacting the growth of scientific and applied interest towards the conceptual, legal and institutional interpretations of economic security have been defined. Current legislation allowing to define the features of subject relations in the given sphere is being analysed.

The research of acting Russian legislation, as well as the process of identifying the institutional and legal subjects of economic security, allow to construct the model of economic security with phenomenological method of thinking.

Modern forms of institutionalization of legal support for economic security are based on the experience of leading regions across the world. The article points out that domestic legal science has significantly improved in conceptualizing the problems of economic security on the basis of classic examples of effective innovation activity.

The article investigates the problems of legal institutionalization of the subjects of economic security, as well as carries out the search for effective measures to counteract the damaging tendencies in the economic sphere.

Keywords: *Threats to economic security, system of economic security, system of legislation, legal regulation.*

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1. Introduction

Investigation of modern problems of economic security gains relevance, which is defined by the current complex of threats to national security, i.e., political, socio-economic, confessional wholeness of the Russian Federation. The creation of necessary conditions for ensuring the economic security is strategic for the actions of Russian government. Irreversible processes of globalization, that define dependency of the economy, increase the importance of provision of economic security. The term “economic security” in the English speaking countries, came into use in the first half of the previous century, during the period of the global crisis and remains in use to describe the protection of private individuals from worsening of the economic conditions. Overall the term reflects a somewhat adequate system of protection of some structure, preserving it from unsanctioned destructive activity, allowing for further operation of this structure.

The majority of scientific approaches towards the understanding of economic security converge to understanding of its close relation to the national security. These terms are correlated, as economic security is considered a part of the system of national state security.

Alongside with economic security, the most important components of national state security are the military, ecological, social, political and others. However the most significance is given to economic security as one of the most important foundations for preserving national security and its structural elements. Only stable and effective economy that functions in safe conditions can create the environment for high quality standards of living in all social spheres. The defining role of economic security is expressed in the fact that the category of “economic security” has been formed on the basis of two phenomena – economics and politics, and is thus a multi-dimensional term. Apart from this, economic security contains certain levels of the system of self-provision, variety of objects that can include the economy, national resources, economic subjects and etc.

In order to construct the legal-institutional model of economic security a special significance is devoted to analysing the acting legislation, related to providing the economic security in Russia. This analysis gives an opportunity to focus on the problem of institutionalization of subjects of economic security. Legal institutionalization of the subject of economic security of each state institute is related to development of a particular idea, project, decision regarding the establishment of the institution, creation of material and technological basis, preparation of local norms and other documentation, human resources preparation, defining the forms of activity, structure, competences of this given institute. All these stages describe the process of establishment of legal-institutional subjects of economic security. Conceptualization of economic security on the basis of analysing

institutional potential of adequate legal modelling of economic security, gives an opportunity to form a correct paradigm of its innovation and institutional effectiveness.

2. Literature review

The problem of provision of economic security attracts the interest of researchers in various branches of scientific studies, starting with economics and legal sciences, finishing with history and sociology. The need for a systemic change within the Russian society, the necessity for a transition from planned economic system towards market economy, required the adoption of western models of economic institutes. These tasks have determined the active scientific conceptualization of development and establishment of the system of prevention of threats to economic security. The fullest and the most concrete analysis of the problems of economic security has been outlined in the workings of S.Y. Glazieva, A.A. Kuklin, V.N. Kishenin, I.P. Faminsky, T.L. Sukharev, A.M. Asaliev, Y.V. Shishkov, S.V. Borozdin, L.A. Bragin, N. Golovatskaya, E. Bukhvald. Specific problems have been developed by E. Nikitin, N.P. Vashekin, F. Schiller, A. Zhandarov, V. Matveev, Y.N. Radushkin, D. Kiselev, M.I. Dzilev and others.

During the process of the establishment a new economic system, the tendency of close interdependence between the problems of economic security and the institutional factors of Russian economy, has been established. There has been an emergence of the need to widen the aspects of economic security, and the use of modern research tools and scientific methodology, developing the institutional paradigm. The workings of Russian scientists Y. Sergienko, N. Raiskaya, A. Frenkel, A. Martinova, S. Kirdina apply the conceptual approaches of modern institutionalism. There is an evident move away from narrow economic evaluation of the problem, with evident transfer towards the methodology of institutionalization. The parameters of formation of legal institutionalization in legal science have been established in order to model the mechanism of implementation of economic security.

The most conceptualized and effective research in the sphere of economic security in legal science has been performed by Y.A. Krokhina, A.P. Gerasimova, B.B. Kazak, E.L. Loginov, Y.S. Chechulina, V.K. Lukinna, S.A. Tropina and others.

3. Methods

In the process of investigating the problems of subject relations in the sphere of economic security the following methodology has been used: legal-institutional, historical-comparative, phenomena reduction and germenevtic paradigm, as well as

methods of legal modelling. The methodological potential of integrated scientific traditions that allows to avoid one-sided view, has been implemented.

4. Results

4.1 Analysis of the normative basis of legal institutionalization of subjects of economic security

Special role in ensuring the unity of legal regulation of economic relations is devoted to the Constitution of the Russian Federation, as the main law of the government. Economic component impacts all of its institutions. As pointed out by N.S. Bondar, economic composition of the Constitution *“has multilevel hierarchical foundations of normative rules that are not constrained by the articles of Constitution from purely economic perspective”* – these are constitutional principles, competence norms and constitutional institutes. Legal regulation set out by the Constitution, develops the relevant legislation, the analysis of which allows to formulate subject relations of the system of economic security.

Thus, Federal Constitutional Law as of 17.12.1997 № 2 – FCL “About the Government of the Russian Federation” (pp. 13-20), defines the powers of the Government of the Russian Federation, including important components of economic security of the subjects at all levels, such as:

- ✓ creation of unified economic space;
- ✓ socio-economic management;
- ✓ development of prioritized directions of the Russian economy;
- ✓ protection of interests of domestic producers;
- ✓ provision of unified financial and credit policy;
- ✓ monetary controls;
- ✓ environmental protection;
- ✓ government policy in international economic relations, military protection of the government;
- ✓ upholding rule of law, order and civil rights and liberties.

The concept of long-term socio-economic development of the Russian Federation until 2020, formulates further directions of economic development.

Another fundamental component of the system of internal economic security is the independent judicial system – fulfilled by the norms of the Federal Constitutional Law as of 17.12.1997 № 1-FCL “About the Supreme Court of the Russian Federation”. Judicial system forms the mechanism of constitutional control of introducing new legislative acts, decisions and actions of the government bodies, the decisions of the federal judicial system, which in turn affects the economic security.

Federal Constitutional Law as of 31.12.1996 № 1-FCL “About the Judicial System of the Russian Federation”, includes the articles 18-26, 28 that introduce a multilevel system of subordination and control of the courts and judiciary bodies, that allows to reach a lawful decision in any type of dispute, including the ones related to economic security of the subjects. Legal regulation of state economic security is also supported by the Federal Law as of 31.05.1996 № 61-FL “About Defence”, defining the system of military defence.

The establishment of the system of normative regulations of economic security is supported by the Federal Law of the Russian Federation as of 28.12.2010 №390-FL “About Security”. The law defines the legal regulation of all spheres of life, the system of state security and its core functions, common order of organization of defence bodies, system of control and supervision of these bodies.

The creation of objective and subjective legal norms of providing economic security is set out by the Federal Law as of 03.04.1995 № 40-FL “About the Federal Security Service”. Articles 1,7,8 of this law define the purpose, composition, legal fundamentals and principles of the FCS (FSB), separately pointing out economic directions. Article 10 makes sure that FSB is competent of fighting crime and terror, Article 11.1 – regarding the protection of economic and other interests of the Russian Federation.

Legal system of regulation and security, including economic security, is set out by the laws as of 01.03.1993 №4730-1 “About the Borders of the Russian Federation”, as of 21.07.1993 № 5485-1 “About Government Secrets”, as of 06.02.1997 № 27-FL “About Internal Forces of Ministry of Internal Affairs of the Russian Federation”, as of 25.07.1998 № 130-FL “About Fighting Terrorism”, as of 25.07.2002 № 114-FL “About Fighting Extremist Activity”, as of 07.08.2001 № 115-FL “About Fighting Money Laundering, and Incomes with Criminal Origin, as well as Terrorism Financing”, as of 30.05.2001 № 3-FCL “About State of Emergency”, as well as Federal Constitutional Law as of 07.02.2011 №3-FL “About Police”.

Special place in the legal regulation of economic security system is given to the Federal Law as of 05.04.2013 № 41-FL “About Accounting House of the Russian Federation”, as a central body of government economic security control, providing control for federal budget articles execution with compliance to deadlines, extra-budgetary funds and etc.

Before 2017, the main norm, regulating economic security in the Russian Federation was the Executive Order by the President of the Russian Federation, as of 29.04.1996 № 608 “About government strategy of economic security of the Russian Federation”, which defined the need for economic security provision. This order has

lost its power, with the proposal of the new Executive Order as of 13th of May 2017 № 208 “About the Strategy of Economic Security of the Russian Federation for the period until 2030”, including: improvement of government management, financial system, economic development of the basis of innovation technology, determining internal and external threats, institutional improvements and creation of mechanisms to overcome destructive phenomena in the economy. Main priorities of the Strategy are the provision of sovereignty, stability of socio-economic development of the country, improvement of quality of life. Main instrument of the following policy is the Security Advisory Board of the Russian Federation, considering the concept of federal budget, considering economic security of the country. Government should therefore coordinate the workings of the executive bodies in order to ensure provision of measures to deter and overcome the threats and challenges to state economic security.

Alongside with the abovementioned Order, the function of regulating the economic security was carried out by the Conception of National Security of the Russian Federation, introduced by the Executive Order as of 17.12.1997 № 1300 “About Establishing the Conception of National Security of the Russian Federation”. This Conception has lost its power with the proposal of a new Executive Order as of 31.12.2015 № 683 “About the Strategy of National Security of the Russian Federation” defining, that national security provides for national security, liberties, rights, quality of life, government sovereignty, defence and security, stable socio-economic and military-political situation in the country. The most important tasks of state economic security are: the creation of comfortable conditions for international economic integration, expansion of market exposure for domestic producers, strengthening of government regulations in the economic sphere in order to achieve the maximum growth in social well-being.

4.2 Stages of formation of subject relations in the sphere of economic security

Attributing feature of the subject is its activity relative to the object. Legal-institutional analysis of legislature regulating the matters regarding the economic security allows to point out the specifics of subject relations in a particular sphere, formulate a statement about the fact that the development of subject relations in the sphere of economic security involves three stages:

- 1) formation of the subject of security in a form of perfect abstract subject;
- 2) future construction of the subject in conglomerate form, partly ideal and partly abstract;
- 3) creation of a group of institutional subjects of security with explained competences – competence subjects.

Beginning of the first stage is inbuilt in constitutional norms and norms of federal constitutional laws. As shown by the legislative analysis, in the sphere of security there emerge two abstract subjects with perfect competences, denoted as “system of defence” and “system of security”. These subjects with often overlapping functions, are differentiated on the matter of “system” and “power”. The fact that the Security Advisory Board of the Russian Federation is defined as a government body in the Constitution of the Russian Federation, doesn’t exclude the statements of marginal abstractness and perfection of subjects in the spheres of security at this stage, as functions themselves are formulated in an abstract way, far from the concrete competences of the body, which in turn is defined in the statement by the President of the Russian Federation.

The second stage of constructing subject security relations, which is referred to as the construction of the subject in conglomerate form (partly ideal and partly abstract), normative regulations see the emergence of such concrete subjects as the army, FSB, Ministry of Internal Affairs, border forces and etc. with more specified competences. Moreover the collection of competences gains as a governmental body. However the following list of subjects is not yet addressing the matters of economic security.

The third stage involves the formation of a certain group of subjects of security with defined competences. Abstract and concrete levels of subject relations cover all branches of government, including the ministries. This allows to solve the problems of security arising from internal and external threats. The concept of national security defines the group of legal-institutional subjects of the government as a whole, and therefore its economic security. Typology of legal-institutional subjects of economic security is accompanied by the description of competence type of subjectivity of each government body. The following document points out, that “the following bodies participate in the process of formation and realization of national security policy of the Russian Federation”: President of the Russian Federation, who implements the country’s military activity and is the commander in chief of the armed forces; The Government of the Russian Federation, that coordinates the functioning of executive bodies and determines the budget spending; Security Advisory Board, that identifies, evaluates and prevents the threats to national security, determining the coordination and control of all government bodies. Federal executive bodies provide for abidance of the Laws of the Russian Federation, Executive Orders of the President and Orders of the Government in order to secure national interests.

In the Conception, the national interests of the Russian Federation are understood to be the presence of balanced personal interests, society and government in the social, economic, inter-political, ecological and other spheres of life, defining the major targets of internal and external policy, including the sphere of economic security.

5. Discussion

Researching the economic security has its discussion aspects, as it is connected with the type of the problem that combines all legal, economic, theoretical, political, historical and sociological aspects. Various aspects of understanding economic security reflect the controversies of reformist directions and programs of the subjects of political process which is seen in the views of supporters of globalization versus those supporting Russia's independent path. This study introduces serious corrections into the various components of national security, and helps overcome the myths regarding economic security provision within the context of ideological system of government.

6. Conclusions

All of the abovementioned we believe gives an opportunity to constitute the presence of legislative basis, regulating the support of state economic security. The use of phenomenological approach, legal analysis and comparison of legal-normative acts, allows the authors to conclude, that subject relations in the sphere of economic security a formed from abstract later on becoming concrete, from common all the way to individual, from idealistic to realistic. Initially these are expressed only in abstract, based on normative ideals. Later on the conditions for formation of concrete subject relations are created, via concretisation and detail elaboration of statements, contributing towards obtaining the necessary results. These results are mounted in the form of social institutes, ensuring economic security.

Classification of types and forms of economic security is carried out on the basis of legal-institutional criteria, in relation to the individual status, borders and completeness of a certain subject, as well as its activity. Special mention goes to personal and national economic security, the latter consists of government, municipal and economic security of the civil society. In the framework of a concrete structure, economic security can internal and external. Within the structure of economic subjects, there is economic security of corporations and SMEs. Amongst the spheres of economic activity: industrial, ecological, commercial, informational, regime and other types of economic security can be highlighted. The application of legal-institutional criteria of types and forms of economic security allows us to specify its systemic and structural levels and legal-institutional dimension.

Institutionalization of the subject of economic security forms and important basis for the formation of legal-institutional model of economic security, that allows for effective implementation of functions and targets by the Russian government. The implementation of these functions is a necessary condition of political and legal protection of the Russian government.

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